

REMARKS

Claims 1-20 are pending in the application and have been rejected. With this amendment, claims 1, 6, 10 and 15 have been amended to further define the invention. Support for the claim amendments can be found in the drawings as well as in the specification, at least on page 19, first full paragraph and page 21, first full paragraph. Reconsideration of the claimed invention is respectfully requested.

The Examiner has objected to the title of the invention as not being descriptive. Accordingly, a new title has been presented which is clearly indicative of the invention to which the claims are directed.

The Examiner has objected to the Abstract. However, it is unclear as to why the Abstract is improper as the same contains only 102 words which is within the range of 50 to 150 words allowed by the USPTO, and does not utilize legal phraseology or implied phrases such as "the disclosure describes". Clarification from the Examiner is respectfully requested.

Claims 1-20 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Corompt (U.S. Patent No. 4,848,619) in view of Parris (U.S. Patent No. 3,591,121). The Examiner states that Corompt teaches all the features of the claimed invention except for a slotted track on the rail for adjustment. The Examiner states that the Parris reference discloses a slotted track, see FIG. 2, to provide adjustment and it would have been obvious to provide a slotted track on the rails of Corompt as taught by Parris to provide more flexibility to adjust the attachment.

It is respectfully submitted that the Examiner has not presented a prima facie case of obviousness. The cited references deal with different problems and one of ordinary skill in the art would not be led to combine the same. The Corompt reference reportedly teaches a solution to the problem of providing access to the front of a container while allowing the container to be manipulated by a standard handling apparatus with a hydraulic arm, see column 1, lines 28-34. Antipodially, the Parris reference relates to a cargo pallet in which the expensive panel-cutting operations to form the cutouts for the pallet fittings are eliminated and permits use of relatively inexpensive 84-inch wide aluminum face sheets while maintaining pallet width at the standard 88 inches, see column 1, lines 35-40.

The Federal Circuit has stated that it is not proper to combine non-analogous prior art. For example, the Federal Circuit has stated:

The combination of elements from non-analogous sources, in a manner that reconstructs the applicant's invention only with the benefit of hindsight, is insufficient to present a prima facie case of obviousness. There must be some reason, suggestion, or motivation found in the prior art whereby a person of ordinary skill in the field of the invention would make the combination. That knowledge cannot come from the applicant's invention itself . . . In re Oetiker, 977 F.2d 1443, 24 USPQ 2d at 1446 (Fed. Cir. 1992).

Nothing in the references, alone or together, suggest the claimed invention as a solution to the problem of providing an attachment apparatus with a slotted track to allow adjustment of a connector member to a plurality of heights so that a single container can be carried by any of a number of different trucks having different minimum hook heights, as explained in Applicant's specification.

Moreover, it is respectfully submitted that the Parris reference cannot teach or suggest Applicant's claimed arm slots of the slotted track. It is respectfully submitted that Parris does not disclose a slotted track. As stated in column 3, line 70 through column 4, line 11, Parris merely teaches a longitudinally extending groove 61 containing three circular openings leading to groove 61. The circular opening 67 cannot teach or suggest Applicant's claimed arm slots which are adapted to house the connector member. Moreover, Parris especially cannot teach or suggest a guide member having at least two guide rails having a slotted track with a connector member operatively connected to the guide rails and movable in the slotted tracks.

It is respectfully submitted that the present invention can only be arrived at utilizing hindsight, impermissibly. As the Federal Circuit has stated:

It is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. This court has

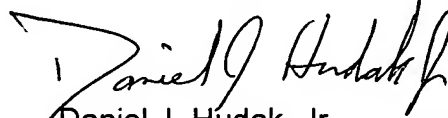
previously stated that "[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. In re Fritch, 972 F.2d 1260, 23 USPQ 2d at 1783-84 (Fed. Cir. 1992).

The mere fact that prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggests the desirability of the modification. Corompt and Parris failed to suggest any motivation for, or desirability of, the changes set forth by the Examiner. Accordingly, it is respectfully submitted that the claimed invention is in condition for allowance and a Notice of such is earnestly solicited.

Should the Examiner have any questions or concerns regarding this response, a telephone call to the undersigned would be greatly appreciated.

Respectfully submitted,

HUDAK, SHUNK & FARINE CO. L.P.A.

A handwritten signature in black ink, appearing to read "Daniel J. Hudak, Jr.", written in a cursive style.

Daniel J. Hudak, Jr.
Registration No. 47,669

DJHjr/js

2020 Front St., Suite 307
Cuyahoga Falls, Ohio 44221
330-535-2220

Attorney Docket No. ESTES-A-CIP